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113TH CONGRESS }
1st Session

SENATE

{ REPORT
113-117

ARCTIC RESEARCH, MONITORING, AND
OBSERVING ACT OF 2013

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1344



NOVEMBER 6, 2013.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

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Mr. ROCKEFELLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1344]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1344) to promote research, monitoring, and observation of the Arctic and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 1344 is to amend the Arctic Research and Policy Act of 1984 (15 U.S.C. 4101 et seq.) to authorize the Arctic Research Commission to enter into agreements with appropriate agencies or organizations to administer grants to pursue Arctic research, and to update the authorities applicable to the Arctic Research Commission and the North Pacific Research Board.

BACKGROUND AND NEEDS

The Arctic is a region of national importance for the purposes of security, energy development, and environmental stewardship. The Arctic is among the most pristine ecosystems on Earth, and is home to iconic species, such as beluga whales and polar bears. Many Alaskan Natives practice subsistence lifestyles and depend on a healthy environment and natural resources to survive. The Arctic is also rich in oil and gas resources, the extraction of which requires intense development work in fragile ecosystems under challenging conditions. Even large companies, such as Shell, have

faced well-documented difficulties working in the conditions of this region.

The Obama Administration has placed a high priority on Arctic Policy, and on May 10, 2013, President Obama signed the National Strategy for the Arctic Region. The program establishes the United States Government's strategic priorities for the Arctic Region, exercising stewardship while making the most of emerging economic opportunities in the region. It also expresses the need for the United States to have a more robust Arctic science program. The Deputy Assistant to the President for Energy and Climate Policy, Heather Zichal, said, "We are committed to a comprehensive, science-based approach to energy policy in the Arctic. These initiatives are part of the Administration's commitment to continuing the expansion of safe and responsible production of our domestic resources."

Better scientific research, mapping, and sustained scientific monitoring would help Federal and State agencies make informed decisions as they work to balance regional economic development with the protection of the environment and habitat on which the Alaska economy and many people depend. Notably, vast areas of the northern Alaskan marine environment have never been mapped. Currently, Arctic research planning is addressed by a myriad of Federal and State agencies and processes, often with competing missions and priorities. Funding for Arctic research is currently only available on an inconsistent basis, and lags behind the amount available for Antarctic research. In testimony before the Committee, environmental and commercial maritime stakeholders have repeatedly noted that any national Arctic science program would be most effective if the program has a clear focus, is institutionally durable over time, and has a stable funding mechanism.

SUMMARY OF PROVISIONS

S. 1344 would amend the Arctic Research and Policy Act of 1984 to authorize the Arctic Research Commission (Commission) to enter into agreements with appropriate agencies or organizations to administer grants to pursue Arctic research. Currently, although Federal agencies are conducting research in the Arctic, (e.g., National Science Foundation, Department of the Interior, National Oceanic and Atmospheric Administration) there is a lack of Federal research focused specifically on supporting the national Arctic research plan. The legislation would enable the Commission to fill that void.

Provisions in this bill would instruct the Commission to adopt conflict of interest and recusal provisions that apply to decisions of the Commission and to all Commission members. This would include disclosure of any financial interest in, or relationship to, a party that is applying for funding from the Commission held by the Commission member.

The bill would amend the Department of the Interior and Related Agencies Appropriations Act of 1998, with respect to the North Pacific Research Board (Board):

- (1) to direct the Board to adopt conflict of interest provisions similar to those required of the Commission by this Act;
 - (2) to direct the Board to decide decisions by majority vote;
- and

(3) to authorize the Secretary of Commerce to accept funds from a source other than the U.S. Government to be used by the Board for such grants.

LEGISLATIVE HISTORY

S. 1344 was introduced by Senator Begich on July 23, 2013. The Committee met in open Executive Session on July 30, 2013, and, by voice vote, ordered S. 1344 reported (in the nature of a substitute) with one amendment offered by Senator Begich, to strengthen the original conflict of interest provisions for the Commission and the Board. S. 1344 is similar to legislation that Senator Begich introduced in February 2013, cosponsored by Senator Schatz, but has been modified to delete a findings and purposes section, as well as to remove the financing provisions pending resolution of outstanding questions about the proposed funding source. Bills to advance Arctic research were also introduced in the 112th Congress by Senators Begich and Murkowski.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1344—Arctic Research, Monitoring, and Observing Act of 2013

Summary: S. 1344 would amend the Arctic Research and Policy Act of 1984 to establish a grant program to provide funding to non-federal entities to conduct research related to the Arctic. Based on information regarding the cost of similar grant programs administered by the National Oceanic and Atmospheric Administration (NOAA), CBO estimates that implementing the legislation would cost \$17 million over the 2014–2018 period. Enacting S. 1344 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1344 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1344 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2014	2015	2016	2017	2018	2014–2018
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	4	4	4	4	4	20
Estimated Outlays	2	3	4	4	4	17

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the end of 2013 and that the necessary amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar NOAA grant programs.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 1344 contains no intergovernmental or private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Jeff LaFave; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The bill would modify the authorities of the Commission and the Board, entities already subject to regulation. Therefore the number of persons covered should be consistent with the current number of individuals affected by law.

ECONOMIC IMPACT

The bill does not include new authorization of funds, and is not expected to have an adverse impact on the Nation's economy.

PRIVACY

The reported bill would not have any adverse impact on the personal privacy of individuals.

PAPERWORK

The Committee does not anticipate a major increase in paperwork burdens resulting from the passage of this legislation. The one area in which the bill does indirectly authorize additional paperwork is aimed at proving grants to interested stakeholders to improve Arctic science.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title.

This section would provide that the Act be cited as the "Arctic Research, Monitoring, and Observing Act of 2013".

Section 2. Arctic Research Commission.

This section would allow the Commission to award grants to Federal, State, local, or tribal governments for work pertaining to the national Arctic research program plan, both on land and in the ocean.

This section would further authorize the Commission to enter into agreements with agencies or organizations to administer

grants, including the reimbursement of funds from the Commission.

Further, this section would initiate a conflict of interest and recusal provision. These provisions would apply to any decision by the Commission and to all members of the Commission, treating each member as an “affected individual,” as defined by section 302(j) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(j)). This requires that all members of the Commission disclose financial interests and relationships with any organization or individual that is seeking funding from the Commission. Senator Begich’s amendment established these provisions as a minimum standard to mitigate conflicts of interest, though the Commission may establish more stringent standards if it wishes to do so.

Section 3. North Pacific Research Board.

This section would give the Board the ability to adopt rules of procedure and to establish committees. Further, all Board decisions would be determined by majority vote.

The Board would also adopt conflict of interest and recusal provisions, similar to the requirements of the Commission. Senator Begich’s amendment establishing the conflict of interest standards as a minimum threshold also applies to the Board. Finally, this section would permit the Secretary of Commerce to accept funds from sources other than the U.S. Government in order to carry out the functions of the Board.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

ARCTIC RESEARCH AND POLICY ACT OF 1984

[15 U.S.C. 4101 et seq.]

SEC. 103. ARCTIC RESEARCH COMMISSION.

[15 U.S.C. 4102]

(a) **ESTABLISHMENT.**—The President shall establish an Arctic Research Commission (hereafter referred to as the “Commission”).

(b) **MEMBERSHIP.**—

(1) The Commission shall be composed of seven members appointed by the President, with the Director of the National Science Foundation serving as a nonvoting, *ex officio* member. The members appointed by the President shall include—

(A) four members appointed from among individuals from academic or other research institutions with expertise in areas of research relating to the Arctic, including the physical, biological, health, environmental, social, and behavioral sciences;

(B) one member appointed from among indigenous residents of the Arctic who are representative of the needs and interests of Arctic residents and who live in areas directly affected by Arctic resource development; and

- (C) two member appointed from among individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.
- (2) The President shall designate one of the appointed members of the Commission to be chairperson of the Commission.
- (c) TERMS OF OFFICE; VACANCIES; HOLD-OVER STATUS.—
- (1) Except as provided in paragraph (2) of this subsection, the term of office of each member of the Commission appointed under subsection (b)(1) shall be four years.
- (2) Of the members of the Commission originally appointed under subsection (b)(1)—
- (A) one shall be appointed for a term of two years;
 - (B) two shall be appointed for a term of three years; and
 - (C) two shall be appointed for a term of four years.
- (3) Any vacancy occurring in the membership of the Commission shall be filled, after notice of the vacancy is published in the Federal Register, in the manner provided by the preceding provisions of this section, for the remainder of the unexpired term.
- (4) A member may serve after the expiration of the member's term of office until the President appoints a successor.
- (5) A member may serve consecutive terms beyond the member's original appointment.
- (d) COMPENSATION AND TRAVEL EXPENSES; FEDERAL EMPLOYEE STATUS; MEETINGS; OBSERVER-DESIGNEES.—
- (1) Members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. A member of the Commission not presently employed for compensation shall be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day the member is engaged in the actual performance of his duties as a member of the Commission, not to exceed 90 days of service each year. Except for the purposes of chapter 81 of title 5 (relating to compensation for work injuries) and chapter 171 of title 28 (relating to tort claims), a member of the Commission shall not be considered an employee of the United States for any purpose.
- (2) The Commission shall meet at the call of its Chairman or a majority of its members.
- (3) Each Federal agency referred to in section 107(b) may designate a representative to participate as an observer with the Commission. These representatives shall report to and advise the Commission on the activities relating to Arctic research of their agencies.
- (4) The Commission shall conduct at least one public meeting in the State of Alaska annually.
- (e) *CONFLICT OF INTEREST.—The Commission shall adopt conflict of interest and recusal provisions which shall apply to any decision by the Commission and to all members of the Commission which at a minimum are substantially equivalent to conflict of interest and recusal provisions set forth in section 302(j) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(j)) as if each member of the Commission is an “affected individual”*

within the meaning of such section 302(j), except that in addition to the disclosure requirements of such section 302(j), each Commission member shall disclose any financial interest or relationship in an organization or with an individual that is applying for funding from the Commission held by the Commission member, including an interest as an officer, director, trustee, partner, employee, contractor, agent, or other representative.

SEC. 104. DUTIES OF COMMISSION; PUBLICATION OF GUIDELINES; REPORT TO CONGRESS.

[15 U.S.C. 4103]

(a) The Commission shall—

(1) develop and recommend an integrated national Arctic research policy;

(2) in cooperation with the Interagency Arctic Research Policy Committee established under section 107, ~~assist in establishing~~ *establish* a national Arctic research program plan to implement the Arctic research policy;

(3) award—

(A) *grants to Federal, State, local, or tribal governments and academic and private organizations to conduct research on or related to the Arctic, including to the marine environment of the Arctic Ocean, its adjacent seas or associated lesser bodies of water; and*

(B) *such grants on the basis of merit in accordance with the national Arctic research program plan;*

~~[(3)]~~ (4) facilitate cooperation between the Federal Government and State and local governments with respect to Arctic research;

~~[(4)]~~ (5) review Federal research programs in the Arctic and recommend improvements in coordination among programs;

~~[(5)]~~ (6) recommend methods to improve logistical planning and support for Arctic research as may be appropriate and in accordance with the findings and purposes of this title;

~~[(6)]~~ (7) recommend methods for improving efficient sharing and dissemination of data and information on the Arctic among interested public and private institutions;

~~[(7)]~~ (8) offer other recommendations and advice to the Interagency Committee established under section 107 as it may find appropriate;

~~[(8)]~~ (9) cooperate with the Governor of the State of Alaska and with agencies and organizations of that State which the Governor may designate with respect to the formulation of Arctic research policy;

~~[(9)]~~ (10) recommended to the Interagency Committee the means for developing international scientific cooperation in the Arctic;

~~[(10)]~~ (11) not later than January 31, 1991, and every 2 years thereafter, publish a statement of goals and objectives with respect to Arctic research to guide the Interagency Committee established under section 107 in the performance of its duties.

(b) Not later than January 31 of each year, the Commission shall submit to the President and to the Congress a report describing the activities and accomplishments of the Commission during the immediately preceding fiscal year.

SEC. 106. ADMINISTRATION.

[16 U.S.C. 4105]

The Commission may—

(1) in accordance with the civil service laws and subchapter III of chapter 53 of title 5, United States Code, appoint and fix the compensation of an Executive Director and necessary additional staff personnel, but not to exceed a total of seven compensated personnel;

(2) procure temporary and intermittent services as authorized by section 3109 of title 5, United States Code;

(3) enter into contracts and procure supplies, services, and personal property;

(4) enter into agreements with the General Services Administration for the procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in amounts to be agreed upon by the Commission and the Administrator of the General Services Administration; [and]

(5) appoint, and accept without compensation the services of, scientists and engineering specialists to be advisors to the Commission. Each advisor may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5 (relating to compensation for work injuries) and chapter 171 of title 28 (relating to tort claims) of the United States Code, an advisor appointed under this paragraph shall not be considered an employee of the United States for any purpose[.]; and

(6) *enter into agreements with appropriate agencies or organizations to administer grants made pursuant to this title for Arctic research including reimbursement from funds of the Commission to administer such grants.*

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES
APPROPRIATIONS ACT, 1998

[111 Stat. 1543]

SEC. 401. ENVIRONMENTAL IMPROVEMENT AND RESTORATION FUND.

[43 U.S.C. 1474d]

* * * * *

(e) MARINE RESEARCH ACTIVITIES.—

(1) Funds available under subsection (c)(2) shall be used by the Secretary of Commerce according to this subsection to provide grants to Federal, State, private or foreign organizations or individuals to conduct research activities on or relating to the fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, and Arctic Ocean (including any lesser related bodies of water).

(2) Research priorities and grant requests shall be reviewed by a board to be known as the North Pacific Research Board (referred to in this subsection as the “Board”). The Board shall seek to avoid duplicating other research activities, and shall place a priority on cooperative research efforts designed to address pressing fishery management or marine ecosystem information needs.

(3) The Board shall be comprised of the following representatives or their designees—

- (A) the Secretary of Commerce;
 - (B) the Secretary of State;
 - (C) the Secretary of the Interior;
 - (D) the Commandant of the Coast Guard;
 - (E) the Director of the Office of Naval Research;
 - (F) the Alaska Commissioner of Fish and Game;
 - (G) the Chairman of the North Pacific Fishery Management Council;
 - (H) the Chairman of the Arctic Research Commission;
 - (I) the Director of the Oil Spill Recovery Institute;
 - (J) the Director of the Alaska SeaLife Center;
 - (K) five members nominated by the Governor of Alaska and appointed by the Secretary of Commerce, one of whom shall represent fishing interests, one of whom shall represent Alaska Natives, one of whom shall represent environmental interests, one of whom shall represent academia, and one of whom shall represent oil and gas interests;
 - (L) three members nominated by the Governor of Washington and appointed by the Secretary of Commerce; and
 - (M) one member nominated by the Governor of Oregon and appointed by the Secretary of Commerce.
- (N) one member who shall represent fishing interests and shall be nominated by the Board and appointed by the Secretary. The members of the Board shall be individuals knowledgeable by education, training, or experience regarding fisheries or marine ecosystems in the north Pacific Ocean, Bering Sea, or Arctic Ocean. Three nominations shall be submitted for each member to be appointed under subparagraphs (K), (L), and (M). Board members appointed under subparagraphs (K), (L), and (M) shall serve for three-year terms, and may be reappointed.

(4)(A) The Secretary of Commerce shall review grants recommended by the Board. If the Secretary does not approve a grant recommended by the Board, the Secretary shall explain in writing the reasons for not approving such grant, and the amount recommended to be used for such grant shall be available only for other grants recommended by the Board.

(B) The Board shall establish written criteria for the submission of grant requests through a competitive process and for deciding upon the award of grants. Grants shall be recommended by the Board on the basis of merit in accordance with the priorities established by the Board. The Secretary shall provide the Board such administrative and technical support as is necessary for the effective functioning of the Board. The Board shall be considered an advisory panel established under section 302(g) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) for the purposes of section 302(i)(1) of such Act, and the other procedural matters applicable to advisory panels under section 302(i) of such Act shall apply to the Board to the extent practicable. Members of the Board may be reimbursed for actual expenses incurred in performance of their duties for the Board.

Not more than 15 percent of the funds provided to the Secretary of Commerce under paragraph (1) may be used to provide support for the Board and administer grants under this subsection.

【(5) All decisions of the Board, including grant recommendations, shall be by majority vote of the members listed in paragraphs (3)(A), (3)(F), (3)(G), (3)(J), and (3)(N), in consultation with the other members. The five voting members may act on behalf of the Board in all matters of administration, including the disposition of research funds not made available by this section, at any time on or after October 1, 2000.】

(5) The Board may adopt such rules of procedure and establish such committees as it deems necessary to carry out the purposes of this title, including the conduct of administrative duties between meetings.

(6) All decisions of the Board shall be by majority vote of the full board in regular session.

(7) The Board shall adopt conflict of interest and recusal provisions which at a minimum are substantially equivalent to conflict of interest and recusal provisions set forth in section 302(j) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(j)) shall apply to any decision by the Board and to all members of the Board as if each member of the Board is an “affected individual” within the meaning of such section 302(j), except that in addition to the disclosure requirements of such section 302(j), each Board member shall disclose any financial interest or relationship in an organization or with an individual that is applying for funding from the Board, including an interest as an officer, director, trustee, partner, employee, contractor, agent, or other representative.

(8) The Secretary of Commerce may accept funds from a source other than the Government of the United States to be used by the Board to carry out the Board’s functions.